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The Solicitors' Journal

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The Solicitors' Journal

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*** Notices to Subscribers and Contributors will be found on page ii.

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Current Topics.

Directors and their Fees.

THE DECISION in *In re Coliseum (Barrow) Ltd.*, reported in *The Times* of 26th March, and in [1930] W.N. 101, is of some importance, for it establishes that directors proving in a winding up for their fees cannot recover fees due more than six years, for the reason that balance sheets in which fees appear cannot amount to acknowledgments within Lord Tenterden's Act. The combined effect of s. 1 of that Act and s. 13 of the Mercantile Law Amendment Act of 1856 is to make a written acknowledgment signed by the agent of the party chargeable sufficient, in an action of debt, to take the case out of the Statute of Limitations. In the case before the court, which had been brought as a test case to have the point decided, the liquidator had rejected the proof of the applicant, a director, to the extent of something over one-third, alleging that his fees to that amount were statute barred because outstanding for more than six years. Evidence was given that the fees appeared in balance sheets passed at board meetings and duly signed by two directors, and it was therein that the mischief lay, for MAUGHAM, J., held that "directors cannot double the parts of agents of the company to make an acknowledgment and creditors of the company for directors' fees." Balance sheets, as they are signed by directors, can amount to acknowledgments that the company owes sums therein mentioned to, e.g., shareholders to whom the balance sheets are circulated, and, apparently, to anybody save directors. Directors, however, said MAUGHAM, J., would be "interested in the matter, and so incapable of passing the resolution so to bind the company." Thus it seems that the passing of the resolution adopting the balance sheet does as much as the signing of the balance sheet by two of the directors to disqualify all the directors from being creditors for the fees. In future, the only course for directors who, while prepared to be lenient when their companies are in difficulties, are unwilling to forego their fees altogether, is not to let them remain outstanding for too long a time.

Deduction of Tax.

THE RESOLUTION of the House of Commons in Committee of Ways and Means, regarding the deduction of income tax for the year 1930-1931, is notable for the obscurity of its meaning. The position became almost Gilbertian when the Board of Inland Revenue issued an "explanatory" memorandum, for the document merely invited taxpayers to read the resolution! At least two sections of this resolution each contained nearly 300 words without pause, and it is not surprising that the MARQUESS OF TITCHFIELD should ask THE CHANCELLOR whether he knew what it meant himself. It is provided that income tax shall be deducted from dividends and interest at the rate of 4s. 6d. in the pound for the current year. In cases where these amounts were paid between the 6th April, 1930 (the first day of the current income tax year) and the 14th April, 1930 (when the resolution was passed) tax was deducted at 4s. in the pound only. In such cases, when the payments were in respect of preference dividends, debenture and other interest, the under-deduction may be corrected from the next payment. It is provided that where there is no prospect of a future payment becoming due (such as where a loan has been repaid) the amount of the tax under-deducted is to be treated as a debt due to the payer by the payee. In the case of ordinary dividends no adjustment by the company will normally be made, but the matter must not be disregarded by the recipient in preparing his sur-tax return or a claim for repayment of income tax. The net dividend must then be treated as a dividend free of tax at 4s. 6d. in the pound. For instance a dividend of £77 10s. less tax at 4s. equals a net dividend of £62. This amount (£62) will be treated for the purposes mentioned as a dividend of £80 received, less tax at 4s. 6d., i.e. £18, leaving £62, the net amount received.

Meaning of the Word "Loss."

MR. JUSTICE ROCHE, in the course of a reserved judgment in *Holmes* v. *Payne*, which he delivered Monday, 12th inst., made some interesting observations on the meaning of the word "loss" in non-marine policies of insurance. The plaintiff, a Lloyd's underwriter, had insured, among other things belonging to the defendant, a pearl necklace valued at £600. The defendant subsequently lost the necklace, and after a very thorough but unsuccessful search, she notified the loss to the plaintiff, who thereupon agreed to replace the missing pearls with other articles of jewellery. He had already done this to the extent of £188 2s. worth of jewellery, when the necklace was discovered in the sleeve of the defendant's evening cloak. The plaintiff's counsel contended that the plaintiff was not bound by the replacement agreement as it had been brought about by a mistake of fact, but Mr. Justice ROCHE held that it was binding as having been made by the plaintiff with full knowledge and after a careful investigation. In any case, he held that there had been a real loss, as the Marine Insurance Act, 1906, s. 60 (2) (1), substituted the test of unlikelihood of recovery for that of uncertainty of recovery in marine insurance cases only. He added that in his opinion if a thing had been mislaid or had disappeared and a reasonable time had elapsed to allow of a diligent search and of recovery, and such diligent search had been made without success, there was a loss. He pointed out, however, that it was unwise and unnecessary to attempt to supply a definition of the word "loss." The learned judge also referred to the case of *Moore and Anor.* v. *Evans*, 33 T.L.R. 125; [1917] 1 K.B. 458, where the whole question was discussed in a careful judgment by Lord Justice BANKES.

Patent Licensees and Estoppel.

It is a well-established principle of patent law, that a licensee cannot dispute the validity of his licensor's patent. As James, L.J., said in delivering the judgment of the Court of Appeal in *Adie* v. *Clark*, 3 Ch. D. 134, at p. 144: "A licensee cannot, under any pretence whatever, bring his licensor into litigation as to the novelty of any part of his patent." The case is analogous to that of a tenant who in any action for rent is estopped from disputing his landlord's title. But the rule is not absolutely unqualified, and the recent decision of Luxmoore, J., in *Fuel Economy Co. Ltd.* v. *Murray* (1930), W.N. 107, which has since been affirmed by the Court of Appeal, shows that it must have regard to the subject-matter of the proceedings, and the defendant must be sued as a licensee for the estoppel to arise. In *Adie* v. *Clark*, the action was for specific performance of an agreement to take a licence and for an account, and the defendant was not allowed to plead that the invention was bad for want of novelty. In *Fuel Economy Co. Ltd.* v. *Murray* the circumstances were quite different. The defendant was the assignee of a licence to manufacture a patented invention within a limited area comprising Northumberland, Durham, Lincolnshire and part of Yorkshire, and to trade in the invention within that area under a registered business name. The patentees sued him for infringement and passing off on the ground that in disregard of the licence he was trading in the invention and using the business name in districts outside the limited area. The defendant pleaded that the patent was bad for want of novelty and other reasons, and the plaintiffs moved to strike out this portion of his defence, and argued that he was estopped from raising it. But Luxmoore, J., distinguishing *Adie* v. *Clark*, held that he was entitled to do so and dismissed the motion. The action was not brought against the defendant as a licensee, and the licence was no defence to it; it need not have been pleaded at all, and it was only mentioned in order to define the area outside of which the cause of action arose. Outside that area the defendant was not a licensee, but in the same position as any other stranger who might infringe the patent. The defence of invalidity was therefore open to him on the claim for infringement, though it would be no answer to the claim that he had passed off goods under a business name he was not entitled to use outside the licensed area.

Erosion of Case Law.

Sir Thomas Browne, of whom it has been well said that to know his writings is no small part of a liberal education, and of whom it may also be said that he had a genius for artistic phrasing, has, in his "Hydriotaphia," a striking sentence in which he speaks of "Time, which antiquates antiquities and hath an art to make dust of all things," thus giving to a very common-place thought regarding the ravages of time on everything mundane a new force by the exquisiteness of its language. The observation finds its application in the sphere of law as in aught else of human activity, despite the supposed conservatism of everything legal. In one of his letters, Lord Bowen discusses the project of attaining immortality by writing a book on English law, and adds, with a touch of sadness, "you write a history of the law, or a treatise about it, and then a puff of reform comes and alters it all, and makes your history or treatise useless." But not only is law "antiquated" by legislative innovations: it becomes so also by changes in habits both of business and social life. Some sixty years ago Chief Baron Pollock enquired in *Clay* v. *Roberts*, 8 L.T. 397, whether it would be libellous "to write of a lady of fashion, that she had been seen on the top of an omnibus," and although he considered that to do so would not constitute a legal injury for which damages could be recovered, he obviously thought it would be a gross breach of taste. *Autres temps, autres mœurs.* Who would dream of putting such a question now? Forty years ago the Court of Appeal decided in *Pullman* v. *Hill & Co.* [1891] 1 Q.B. 524, that it was not reasonably necessary and in the ordinary course of business for a merchant to dictate to a shorthand clerk a letter containing defamatory matter in reference to the addressee, and that, consequently, the occasion was not privileged. The decision has been adversely criticised, distinquished and queried, on various occasions, and now it would appear to have received its *coup de grace* in *Osborn* v. *Boulter & Son*, which was before the Court of Appeal on 16th May, and where it was said that what may not have been reasonably necessary and in the ordinary course of business in 1891 had certainly become both reasonably necessary and in the ordinary course of business in 1930. Time has thus "antiquated" *Pullman* v. *Hill & Co.*, and practically relegated it to a decision on fact which in the course of forty years has ceased to be fact. Just as many parts of our coast line suffer from erosion, so in the same way many of the cases which were thought to be landmarks of legal principle are, through changes of habits and changes of thought, eaten into and found to be little more than shifting sand.

A Bequest for Disabled German Soldiers.

The bequest in the will of one Captain Otway Robinson, a retired master mariner, of the residue of his property to the German Government for the time being, for the benefit of its soldiers disabled in the late war, is certainly of an unusual nature. The testator recites that "victorious and wealthy England" is well able to provide for those who have been disabled in the late great war . . . "whereas these unfortunates (the great majority of them conscripted under the former rigorous system of Prussian militarism) can only receive either meagre pensions or small help." His premises may be regarded as, at least, controversial; the British taxpayer may indeed have been on the winning side in the war, but he is certainly entitled to question whether, with the enormous burdens it has laid upon him, it has left him wealthy. Nor is there reason to doubt that there are plenty of rich Germans left to be taxed for the benefit of their disabled soldiers. The issue whether the bequest is valid, however, does not depend on whether the testator argued on false premises. It must therefore be considered on its merits as a charitable gift. In *New* v. *Bonaker* (1867), L.R. 4 Eq. 655, there was a bequest of a fund to the President and Vice-President of the United States and the Governor of Pennsylvania upon trust to build and endow a college for moral philosophy, with special teaching as to the black races. The holders of all three offices disclaimed the gift, and in the circumstances it was held that it failed, for there was no method available to the court to carry it out. In *Re Geck* (1894), 69 L.T. 819, a testator made a bequest in favour of poor persons living at Obermoerlen, Germany. On behalf of the next-of-kin of the testator the late Mr. Oswald argued that the case was governed by *New* v. *Bonaker*, but the Court of Appeal held that that was an authority against him, on the ground that it was decided on the disclaimer of trustees, and that the trust would have been valid if they had accepted it. The Burgomaster of Obermoerlen being willing to receive and administer the money for the purpose named, the court held that it should be paid to him accordingly. The disabled soldiers of Germany ceased, of course, to be the King's enemies when peace was made, and, if the bequest is construed in favour of such of them as are in need (the extract from the will given in the Press is not quite clear on the point), *Re Geck* appears to be a strong authority that it is valid. Possibly it may be otherwise if the objects of the charity are not necessarily poor persons. That the disablement was caused by resistance to the forces of the King and his allies, a highly nefarious object from our point of view, would presumably have no effect on the validity on the bequest after peace was declared, and the disabled soldiers had consequently become merely maimed subjects of a friendly power.

Mortmain and Assurances for Religious Purposes

By s. 4 of the Mortmain and Charitable Uses Act, 1888, certain conditions are imposed under which assurances of land to or for the benefit of any charitable uses and every assurance of personal estate to be laid out in the purchase of land to or for the benefit of any charitable uses must be made in accordance with the requirements of the Act, and unless so made are void.

Section 7 (11) of the Act exempts from the operation of s. 4 assurances, otherwise than by will, to trustees on behalf of any *society or body of persons associated together for religious purposes*, or for the promotion of education, art, literature, science, or other like purposes, of land not exceeding two acres, for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected, so that the assurance be made in good faith for full and valuable consideration.

In the first place, it will be noticed that in order to bring a body of persons within the exemptions referred to in the sub-section, the society or body of persons must be "associated together" for religious purposes or for the promotion of education, art, literature, science or other like purposes. It may, therefore, be advanced with some confidence that persons subscribing to a fund for the purchase of land, not exceeding two acres, for any one or more of the purposes mentioned in the sub-section, cannot be considered, by the mere payment of money to a common fund, as being "associated together," although there may be but one object in view.

On the other hand, where a committee has been formed to collect subscriptions for the acquisition of land, not exceeding two acres, for any purpose to which the sub-section is applicable, the committee may be considered as being a body of persons "associated together" within the meaning of the sub-section.

It is not very clear what constitutes a "society" within the meaning of the sub-section. In the widest meaning of the term it might be said to include (*inter alia*) churches of all denominations, the word "society" being described in a well-known dictionary (Murray's), "as a number of persons associated together by some common interest or purpose, united by a common vow, holding the same belief or opinion, following some trade or profession," and in Mozley Universal Serm. IV, 77, it is stated that "the Church is undoubtedly in its design a spiritual society, but it is also a society of this world as well." So, too, in the Statute of 31 Eliz. c. 6, s.1, churches, collegiate churches, cathedrals, scoles, hospitals, halls and *other like societies*, are all so classed as capable of being described individually as a "society." The question whether churches of all denominations can be so described is an open one, and until there has been a decision of the Court on the construction to be placed on the word "society," it would be unwise to assert that denominations such as the Church of England or the Church of Rome come within the exemption.

The religious purposes for which an assurance of land, not exceeding two acres, may be made, must be such religious purposes as are authorised by law. Any religious purpose which has for its object the propagation of the rites of a religion not tolerated by law, is an illegal purpose, being void by the general policy of the law (*Heath* v. *Chapman* (1854), 2 Drew. 417). At common law, any gift for the worship of God was upheld irrespective of the particular religion according to which the worship was to be offered, provided such religion was recognised as lawful. Before the Toleration Act (1 Will. & Mary, c. 18), all persons entertaining opinions at variance with the doctrines of the established religion were obnoxious to the laws relating to superstitious uses and gifts to any denomination dissenting from that religion were considered as being for a superstitious use (*West* v. *Shuttleworth*, 2 Myl. & K. 684). Since, however, the decision of the House of Lords in *Bourne* v. *Keane* [1919], A.C. 815, where *West* v. *Shuttleworth* and cases founded upon it, were overruled, and the House of Lords upheld as valid a bequest of personal estate for masses for the dead, the question of the application of the law to superstitious uses will seldom, if ever, have to be considered, but it must not be assumed that there are now no superstitious uses and that no gift for any religious purposes, whether Roman Catholic or otherwise, can be invalid (Birkenhead, L.-C., in *Bourne* v. *Keane*, *supra*, p. 860). Trusts for the purposes of religion have always been recognised in equity as good charitable trusts, but there is no express authority dealing with the question what constitutes religion for the purpose of this rule. It may, however, be assumed that in the equitable rule as to trusts for the purposes of religion being charitable, religion includes all forms of religions which accept the fundamental doctrines of the Christian faith (Lord Parker in *Bowman* v. *Secular Society* [1917] A.C. 406, at pp. 448, 449).

Within this equitable rule, and apart from statutory penalties, there was never anything inconsistent with public policy in enforcing a trust for the benefit of any denomination dissenting from the established religion, hence there was never anything inconsistent with public policy in enforcing a trust for the benefit of the Jewish Faith (*De Costa* v. *De Paz* (1819), Amb. 228).

In accordance with this view, a gift (not a trust) to a society whose main object was "to promote the principle that human conduct should be based upon natural knowledge and not upon supernatural belief, and that human welfare in this world is the proper end of all thought and action" was upheld (*Bowman* v. *Secular Society* [1917] A.C. 406).

It may, in fact, be said that all gifts for religious purposes which are good in the eyes of the law are equally good as being for charitable purposes within the meaning, purview and interpretation of the preamble of the Statute of 43 Eliz. c. 4, which has always been looked to as containing the definition of a charitable use, and the Court now restricts its jurisdiction to those charitable and quasi-charitable purposes mentioned in such preamble and to those purposes which are by analogy within its spirit and intendment (*Morice* v. *Bishop of Durham*, 9 Ves. 399, 405).

Of the purposes which are within the spirit and intendment of the statute, the advancement of religion is one, and the repair of churches is expressly referred to in its preamble. Gifts for maintaining religious services are upheld as being for charitable purposes, but are only upheld where they tend, directly or indirectly, towards the instruction or edification of the public (*Cocks* v. *Manners*, L.R. 12 Eq. 574).

So gifts to spiritual persons in their official capacity are capable of being supported as gifts for religious purposes as well as being good charitable gifts. Hence a gift to a person who shall, from time to time, fill the office of minister of a particular parish is a religious as well as a charitable gift, not, however, with respect to the minister whose maintenance is the direct object of the gift, but with respect to the congregation who derive spiritual advantage from the exercise of the functions of his office (*Robb* v. *Dorrian*, Ir.R. 11 C.L. 298).

On the same principle, a gift to a parish clergyman for preaching an annual sermon on a particular day (*Toresby* v. *Hollins*, 9 Mod. 221) or to provide a stipend for the organist of a church (*Turner* v. *Ogden*, 1 Cox 316) are good charitable purposes as well as being for valid religious purposes.

There are more recent cases where the chief object of the gifts was to benefit a particular religious denomination. Thus a bequest "for the benefit of the Church of England" was held to be a good charitable gift (*In re Barnes*, reported in *The Times*, 21st July, 1922), and a like bequest "to the Roman Catholic Church for the use thereof" was also upheld (*In re Schoales* (1930), W.N. 103).

In these cases the gifts were good charitable gifts, but the difficulty, in default of directions as to receipt—was to determine who could give a good discharge without the necessity of applying to the Court for a scheme.

(*To be continued.*)

Estate Companies and the Finance Bill, 1930.

THE Chancellor of the Exchequer, in his Budget speech, indicated his intention to deal with companies formed for the purpose of avoiding the payment of death duties; the text of the Finance Bill, 1930, is now available, and this has certainly been done—and how, as the citizens of the U.S.A. are wont to say. Part III of the Bill (clauses 28 to 35) deals with estate duty, and of this Part clauses 29 to 33 have reference to what may conveniently be called estate companies. It may at once be said that it is very doubtful whether a more highly involved series of sections has yet found its way on to the statute book; but as it appears highly probable that these sections eventually will be seen there they cannot be ignored.

Part III is to be construed as one with the Finance Act, 1894 (cl. 47 (3)), which Act is throughout Pt. III referred to as "the principal Act" (cl. 28). A first reading of these clauses will probably convey very little meaning to the average reader, but he will at least be struck by the superb sense of the fitness of words, and the healthy respect for our common inheritance the English language, which is a most noticeable feature throughout. A hasty, and probably inaccurate, count, gives a total of ten mentions of the phrase "*bonâ fide*" in Pt. III. The Law of Property Act, 1925, very properly showed that it was possible to use English words in an English Act of Parliament, but in a taxing Act we must apparently go to an alien tongue to obtain the correct shades of meaning. "*Bonâ fide* dividends" and "*bonâ fide* interest on money lent" are two of the happiest phrases to be found, and raise the interesting question as to how the good faith of a dividend or of interest (which is presumably what is being challenged, though the justification for using a noun in the ablative as an adjective appears to be scant) is to be determined; but it is not without a pang that some of us will relegate to the lumber heap the old and apparently outworn theory that intention proceeds only from a being capable of cerebration.

Clauses 29 to 33 come under a heading "Private Companies," and also contain references to an entity described as a private company. This may not perhaps appear particularly startling, for a private company is a thing which is familiar to every lawyer, and which is carefully defined in s. 26 of the Companies Act, 1929. Here, at any rate, says the reader, is a phrase which I know and understand. Not a bit of it: turn to cl. 33 and read that in Pt. III of the Finance Bill the expression "private company" includes any body corporate wheresoever incorporated, which either—

(i) is so constituted as not to be controlled by its shareholders or by any class thereof; or

(ii) has not issued to the public more than half of the shares by the holders whereof it is controlled.

The crass folly of taking a phrase with a meaning defined in one statute, which phrase is one of the very commonest and best understood phrases, not only among lawyers but among the commercial community at large, and placing it in another statute, and there attempting to give it a totally different meaning, should be patent to an intelligence of any order, but apparently this is not so.

In future, if this clause is allowed to pass unaltered, it will be necessary, when talking or writing of a private company, in every case to define whether what is being considered is a private company within the meaning of the Companies Act, 1929, or within the meaning of the Finance Act, 1930.

Legislation by reference has already come in for much legitimate criticism, but in this Bill we have such a maze of cross reference within the Bill itself as, one would imagine, can never yet have been incorporated in a statute. For instance, cl. 29 (1) requires reference to nine other places in the Bill before the reader can even begin to understand its provisions. A proper arrangement into sub-sections would undoubtedly simplify this, and could perfectly well, by taking thought, have been introduced into the original draft of the Bill.

Further criticism of this fantastic piece of contemplated legislation must be deferred till a detailed examination of its provisions has been made, but the most emphatic protest must at once be entered against this method of making our country's laws.

The lot of the lawyer is not, and perhaps never has been, an easy one, but it is a monstrous injustice needlessly to make it more difficult.

Writing of the troubles to which the human race is subject, Mr. HOUSMAN has said: "Bear them we can, and if we can we must"; but though we should doubtless survive a Finance Bill in this form, it is not a trouble of the nature indicated by the poet, and there seems to be no earthly reason why we should be compelled to put up with such an infliction.

Notoriously lawyers are a patient class, but surely some concerted effort might be made to place on a more satisfactory basis the drafting of bills, or at any rate to obtain an inquiry into the whole question. The complexity of conditions existing at the present time, and the constant demands on the time of our legislators and others, make the problem more difficult, but it is one which must be capable of solution.

A very brief indication of the general scheme of the Bill may prove of some assistance to the reader of this article, but the provisions of the Bill must be referred to to fill in the details.

Clause 29 is aimed at transfers of property to companies of the nature defined above (in the Bill called "private companies") other than—(*a*) *bonâ fide* sales for full consideration. (*b*) transfers incidental to the transfer of a *bonâ fide* business, not being a business which substantially consists in holding, managing, developing or dealing in land; (*c*) transfers of property in which a deceased person had a life interest which, by cl. 30, is deemed to pass on death. Where such a transfer has been made, and where a deceased person receives benefits out of the resources of the company which are (*a*) payments other than dividends on shares in, or interest on money lent to, the company, or (*b*) any right in or enjoyment of any land, the proportion which the total value of such benefits bears to the total income of the company must be calculated in respect of yearly periods over a period (which cannot be more than four years) prior to the death. If, in respect of any of these yearly periods, the calculation shows that the benefits taken by the deceased were more than 30 per cent. of the company's income for that year, the yearly period in respect of which the proportion of benefits to income was the highest must be seized upon, and the proportion for that year is then taken, and utilised for another purpose.

That other purpose may at once be revealed: the total value of the assets of the company must be ascertained, and a simple calculation will then tell us what sum of money bears the ratio of the maximum proportion above referred to to the total value of the company's assets, and such sum of money (but not exceeding the value of the total assets of the company) is, for the purposes of estate duty, to be deemed to pass on the death, over and above any other property which passes or is deemed to pass thereon. A numerical illustration will make this clearer. Suppose the maximum proportion which the benefits received bear to the company's total income is 37/100, and suppose the total value of the company's assets is £200,000, then, for the purposes of estate duty, there is to be deemed to pass on the death £74,000. This clause applies only to deaths after the commencement of the Act, but it applies whether the transfers of the nature indicated above were made before or after the commencement. The payment of totally disproportionate directors' fees and managerial salaries should be discouraged by these provisions.

Clause 30 provides that where at any time before the death of a person dying after the commencement of the Act any property in which the deceased had at any time an estate or interest limited to cease at his death, is transferred to a

company of the nature here being dealt with, then the property shall be deemed for the purpose of estate duty to pass on the death as if the estate or interest of the deceased therein had continued till the death, unless either (*a*) there was a sale to the company in good faith for full consideration in money; or (*b*) the deceased had at least three years before death relinquished all interest in the property. Certain deductions are allowable from the principal value of property deemed to pass under the clause.

Estate duty payable under clauses 29 and 30 is to be a debt due from the company to the Crown, and the company and every director is to be accountable for it. Where any claim arises, the company concerned must notify the Commissioners of Inland Revenue, under a penalty for wilful default of £500. The Commissioners are given an unrestricted power to require any information they like from a company, again under heavy penalty for non-compliance with their demands.

Clause 32 deals with the valuation of shares in these companies, and provides an amendment of s. 7 (5) of the Finance Act, 1894. If, on a death after the commencement of the Act, either cl. 29 (the clause involving the calculation of proportions dealt with earlier in this article) has come into play, or the control of the company was immediately before the death in the hands of the deceased, and shares (not being preference shares) in such a company pass on the death, their principal value for estate duty is to be ascertained by reference to the value of the total assets of the company, and not under s. 7 (5) of the Finance Act, 1894, though if the proportional calculation has operated, the value of the total assets is to be deemed to be reduced by the sum thereby deemed to pass on the death. A participating preference share is caught by this provision, and the control of a company is defined at some length. This clause will straighten out the confusion caused by *M'Connell's Trustees* v. *Commissioners of Inland Revenue* (1926), S.N. 145; (1927) Sc.L.T. 14, whilst upholding the actual decision there arrived at and is on the whole the most satisfactory provision in this unsatisfactory series of clauses.

Company Law and Practice.

XXX.

RATIONALISATION is a process which is much under discussion at the present time, especially by those whose knowledge of the true meaning of the word may be described as inexact; indeed to such lengths has this gone that *The Times* newspaper has finally attempted to make an explanation for the benefit of the public. Fortunately, perhaps, in this column we are not directly concerned with the various schemes which from time to time are hatched out and are labelled as schemes of rationalisation, but the legal aspect of them is never far away, and it is an aspect by no means invariably pleasant to the lawyer, for one is apt to find oneself sailing in seas which, if not uncharted, are at any rate not charted with that superb accuracy for which our naval cartographers are famed.

A great help was given to schemes of this nature by the beneficent provisions giving relief in certain cases from capital and transfer stamp duty in cases of reconstructions and amalgamations, which were first introduced by s. 55 of the Finance Act, 1927, and were subsequently amended by s. 31 of the Finance Act, 1928. He would be a bold man, however who would say that either separately, or taken in conjunction, these sections were models of clear thinking and lucid expression. True it is that the matters dealt with are extremely complicated, and therefore require the most ample treatment, but amplitude and simplicity are not, one would think, mutually exclusive. The only point which can be made in favour of these sections looked at from this angle is that they appear to be less completely unintelligible to the ordinary intellect than many of the provisions of the Finance Bill, 1930.

Section 31 of the Finance Act, 1928, is an illustration of drafting of a kind which it is to be hoped will not be too frequently repeated: in conjunction with the Act of 1927, we get from s. 31 (2) a provision to the following effect "Stamp duty . . . shall not be chargeable . . . on any instrument made for the purposes of or in connexion with the assignment to the transferee company of any debts, secured or unsecured, of the existing company." Pausing there, one would naturally have to consider what was meant by a debt of the existing company. A debt is a debt from two points of view, that of the debtor and that of the creditor; perhaps, to be strictly accurate, it should be described as a debt only from one point of view, and a credit from the other, but the expression "book-debts" is so well understood as referring to sums owing to the person whose property the book-debts are, that the strictly accurate use of the word "debt" can be ignored for this purpose. However, on the whole it is perhaps fair to say that, standing by itself, "debts of the company" would probably be taken to mean debts owing by the company, though even this is not free from doubt.

But when we read the rest of this phrase we find that it is talking about assignments of these debts. This would seem to show in the strongest possible way that the debts in this sub-section referred to must therefore be debts owing to the company, such as book-debts, with the addition of other amounts owing, but not coming properly within the character of book-debts; for it is at least misleading to speak of the assignment by a person of debts owing by him—he cannot assign the liability for a debt, unless, of course, the creditor agrees to such a course and releases the original debtor.

This course of reasoning, though logical, must be rejected, however, when the rest of the sub-section is examined, and we are bound to conclude that the debts referred to are debts owing by the company, for s. 31 (3) of the Act of 1928 add a proviso to s. 55 (1) of the Act of 1927 to this effect ". . . the foregoing provision with respect to the . . . assignment of debts of the existing company shall not, except in the case of debts due to banks or to trade creditors, apply to debts which were incurred less than two years before the proper time for making a claim for exemption under this section." The words "debts due to banks or to trade creditors" put it beyond doubt that it is debts owing by the existing company which are here referred to, notwithstanding the reference to assignment earlier in the sub-section.

Thus an assignment of debts due to the company does not obtain any relief under these sections of the Finance Acts: and here it may well be noted that, in any event, the wise practitioner who is anxious to save stamp duty, will leave outstanding in the old company debts owing by the company sufficient in amount to be covered by debts due to the company, which will also be left in it, or debts due sufficient in amount to be covered by debts owing, according to the circumstances.

The Finance Bill, 1930, in clause 36, contains an amendment intended to afford further relief by adding a provision that the nominal share capital of the transferee company, or the amount by which its capital has been increased, shall, for the purpose of computing the stamp duty chargeable in respect of that capital be treated as being reduced in the alternative, and in addition to the already existing relief under s. 55, by an amount equal to the amount of the share capital of the existing company in respect of which relief has been allowed under the provisions of s. 55. Thus, once relief from capital duty has been obtained, it may be said, in a sense, to attach itself to a block of capital of that amount for the purposes of relief whenever the company which was in the first case a transferee company within the section becomes an existing company within it, and so *ad infinitum*. This amendment is intended to be retrospective, for the clause provides that s. 55 is to be deemed always to have had effect in the manner there provided.

(To be continued.)

More Town Planning Difficulties.

By RANDOLPH A. GLEN, M.A., LL.B.

Town planning authorities are experiencing great difficulties in carrying through negotiations with developing owners on the borders of areas owing to the multiplicity of local authorities affected. A borough council is preparing a scheme which goes outside its area into urban and rural districts, and includes a by-pass road mostly outside the borough. This necessitates negotiations between five different parties, owners of property, the county council as to roads in rural districts and classified roads in urban districts, urban district councils as to unclassified roads and zoning, rural district councils as to zoning, and the borough council as the father of the scheme. In some cases there is a sixth party, the Regional Town Planning Committee. Instances have occurred where the responsible council have obtained all they want from owners, the latter are satisfied and anxious to proceed with their development, but some other authority intervenes and holds everything up. One remedy for this would be to give the Minister power to approve schemes in parts (see clause 7 of the Rural Amenities Bill, which I settled with this object in view). A still better remedy, to my mind, would be to give the Regional Committees statutory powers for the purpose of overcoming the conflicting wishes of all other parties. If they were made the tribunal to settle disputes of this kind, the mere existence of this power would in nine cases out of ten result in their views being adopted without the delay which at present is inevitable. The powers of the Minister of Health are confined to hearing interim development appeals and sanctioning and modifying schemes. Neither of these powers really helps the various town planning authorities to get together during the preparation of schemes. The Regional Committees should be given a representative constitution and definite statutory powers over the whole of the region, and no area should exist that is not in a region. It would also be desirable to give these committees power to veto spoliation by "bungaloids" and other offensive growths during the development of districts in which the local authorities are supine over town planning and the preservation of amenities.

Another great difficulty is the setting off of betterment against claims for compensation. Many authorities are so frightened about the bogey of heavy expenses that they will have nothing to do with town planning. If they could lessen the costs of compensation by a ready means of obtaining betterment charges, this bogey would be laid to rest. In the second report of the committee appointed by the Ministry of Reconstruction to deal with the "Acquisition and Valuation of Land," which was published in 1918, s. III deals with "Betterment." It points out that "the principle of betterment, i.e., the principle that persons whose property has clearly been increased in market value by an improvement, should specially contribute to the cost of such an improvement, and the principle of injurious affection, i.e., the principle that persons whose properties are damaged by the construction or user of the promoters' works, should be entitled to receive compensation, are correlative." The Committee rejected the idea of the State collecting an "increment value duty" on the ground of delay in securing financial benefit therefrom. Instead, they proposed that the promoters of a scheme, when seeking the approval of the sanctioning authority, should schedule the area which they considered would be benefited by the scheme, and that objectors to inclusion in the area should have an opportunity of stating their objections at this early stage. They further proposed that, to prevent owners of property being hampered in dealing with it by sale or otherwise, such owners should have a right to get the amount of betterment determined at a time suitable to themselves by applying to the sanctioning authority for an immediate determination of the charge, and a right to pay the capitalised value of the charge and obtain a certificate of discharge.

A further difficulty in this connection is the great cost of determining the amount of betterment. Thus, in the four schemes of the London County Council, which were completed at the date of the report and in which "improvement charges for betterment" were made, the total of the annual charges settled by the arbitrators was only £1,749, while the cost of the valuations amounted to £17,851. It is hardly possible to say in advance exactly what will be the benefit derived from any particular improvement, so that having a preliminary valuation only will not do. It is also quite impossible to assess the benefit after the improvement has been effected without knowing what was the value of the property before the improvement was effected. Two valuations are therefore necessary, and the committee suggested that both should be made by the Inland Revenue Valuation Department, who could use, but would not be bound by, the various documents in their possession for other purposes, with a right of appeal by either party to the official arbitrator. The Acquisition of Lands (Assessment of Compensation) Act, 1919, was the result of this report, but that Act does not deal with betterment. Section 5 (as to costs) should be applied to any such appeal in betterment cases. There would naturally have to be an apportionment of the incidence of the charge between all interests in the land affected. The committee proposed that only 50 per cent. of the betterment should be recovered, but I see no reason why, if all proper allowances are, in fixing the charge, made for the operation of causes of the betterment other than those due to the town planning scheme, the whole should not be charged. Unless an owner cares to "compound," the charge should be an annual one, with interest fluctuating according to the bank rate, and it should have "priority" after taxes and rates. When national funds are used by the town planning authority in effecting the improvement, it would be reasonable for the State to take a proportion of the charge based on the amount so contributed.

I drafted a clause (No. 4) for the "Rural Amenities Bill," which was recently unanimously read a second time in the House of Commons, based on the German "Lex Adices," but I understand that this is considered too controversial. I hope, however, that some method will be devised by our legislators for overcoming this town planning difficulty.

My clause in this Bill (No. 8) will get over the difficulty (dealt with in my article on pages 64 and 65 of The Municipal Review) created by Mr. Justice Clauson's decision in *Bromley R.D.C.* v. *Blatch* (73 Sol. J. 325).

KING EDWARD'S HOSPITAL FUND FOR LONDON.

Arrangements have been made for a specially conducted visit to the new dock at Tilbury and the Orient liner, s.s. "Orontes," on Friday, 20th June, in aid of King Edward's Hospital Fund for London. A steam launch has been chartered to take the party by river, leaving Westminster Pier at 9.30 a.m., and reaching Tilbury about 11.45. On arrival the visitors will be given an opportunity of inspecting the "Orontes," and a buffet lunch will be served on board at 1 o'clock by kind invitation of the Orient Company. After lunch the authorities of the Port of London Authority will conduct the party over the new dock. The steamer will leave Tilbury on the return journey at 2.30, arriving at Westminster Pier about 5. Tickets (price £1 1s.) can be obtained from the Secretary, King Edward's Hospital Fund for London, 7 Walbrook, E.C.4, and early application should be made, as the number must necessarily be limited.

A Conveyancer's Diary.

Executors carrying on Testator's Business—Competition by Executor.

I have recently had occasion to consider the position of an executor who under the directions in the will is carrying on the business of his testator and desires himself to engage in a similar business in circumstances which would bring his private business into competition with that of his testator.

A recent case on this subject is *Re Thomson; Thomson* v. *Allen* [1930] 1 Ch. 203.

In that case a testator who carried on the business of a yacht broker appointed the plaintiffs B and one W and the defendant executors and trustees and directed them to carry on his business after his death, and in the event of a sale thereof by his executors the whole of the proceeds were bequeathed to B. The testator died in August, 1928, and his executors, in pursuance of the directions contained in his will, carried on his business until February, 1929, when, the testator's tenancy of the business premises being about to expire, they removed the business to other premises, a lease of which was shortly afterwards granted to the defendant alone, of which lease to the defendant the other executors did not become aware until a few weeks after the grant thereof, when the defendant claimed the right to hold the lease of the new premises for his own benefit, to exclude the other executors therefrom, and to set up and carry on on his own account a business similar to and in competition with the testator's business. The defendant having since the issue of the writ in the action assigned the lease of the new premises to B, and the goodwill of the business having also been assigned to her, it became no longer necessary to grant any relief claimed and necessary to determine only whether the defendant was entitled at the date of the issue of the writ to the right which he claimed for the purpose of deciding how the costs of the action ought to be borne.

Clauson, J., held, first, that in face of the claim of the defendant to the benefit of the lease, the plaintiffs were justified in bringing the action, and, secondly, that having regard to the special nature of the business of a yacht broker, which necessarily involved competition between every individual broker with all the others, it would have been a breach by the defendant of his fiduciary duty towards the beneficiaries under the will if he had at the date of the issue of the writ set up on his own account an independent business of a yacht broker in competition with the plaintiffs carrying on the business of their testator.

I am not concerned with the first point of the decision. It seems clear enough that the defendant could not claim to hold the lease of the new premises for his own benefit. It is with the second point of the decision with regard to the right of an executor to set up a competitive business that I propose to deal in this article.

In the first place, it may be observed that the business of a yacht broker is of rather a peculiar kind in that every yacht broker in the country may be said to be in competition with all the others. Consequently, in this case, if the defendant could not carry on that business in competition with the business of the testator, he could not carry it on at all, at any rate in this country.

Generally, however, that state of things does not exist. An executor conducting his testator's business in one town or district may well carry on a similar business on his own account in another locality without any competition arising between the two concerns. *Re Thomson* is therefore rather a stronger case than that which usually occurs. It may be mentioned also that the defendant in that case had been in the employ of the testator in his business for some time up to the date of the testator's death, and it was not disputed that during the testator's lifetime he might have terminated his employment and commenced in business on his own account. The question which arose was whether, having accepted the position of executor, he was entitled to sever his connexion with the business and start a competing business.

Clauson, J., based his judgment upon the authority of *Aberdeen Ry. Co.* v. *Blaikie Brothers* (1854), 1 Macq. 461.

In that case a director of a railway company, who was also a member of a mercantile firm, entered into a contract *quâ* director with such firm for the supply of goods, and it was held that such a contract, although it might be enforced at law, was illegal in equity upon general equitable principles and would be set aside and no question could be raised as to the fairness or unfairness of a contract so entered into.

Lord Cranworth, L.C., stated the principle involved in that case, as follows: "A corporate body can only act by agents and it is of course the duty of those agents so to act as best to promote the interests of the corporation whose affairs they are conducting. Such agents have duties to discharge of a fiduciary nature towards their principal. And it is a rule of universal application that no one having such duties to discharge shall be allowed to enter into engagements in which he has or can have a personal interest conflicting or which possibly may conflict with the interests of those whom he is bound to protect. So strictly is this principle adhered to that no question is allowed to be raised as to the fairness or unfairness of a contract so entered into." And further: "The inability to contract depends not on the subject-matter of the agreement but on the fiduciary character of the contracting party, and I cannot entertain a doubt of its being applicable to the case of a party who is acting as manager of a mercantile or trading business for the benefit of others, no less than to that of an agent or trustee employed in selling or letting land."

From that authority Clauson, J., deduced the principle which he applied in *Re Thomson*. He said "I find the principle to be this: The rule of universal application is that an executor and trustee having duties to discharge of a fiduciary nature towards the beneficiaries under the will—in this particular case the duty of a fiduciary nature was to carry on the business of the testator to the best advantage of the beneficiaries—he shall not be allowed to enter into any engagement in which he has or can have a personal interest conflicting or which possibly may conflict with the interests of those whom he is bound to protect." So, he said, the defendant was not entitled to carry on business on his own account as he would or might be entering into engagements which would or might conflict with the interests of the beneficiaries under the will.

It would seem to result from this that an executor who has accepted the office and is required to carry on the testator's business must cease all private business activities which would or possibly might conflict with the interests of those interested in the testator's business. That is rather a hard saying, and I venture to think is not really within the principle enunciated by Lord Cranworth, although no doubt the language used by him was wide enough to cover it. In *Aberdeen Ry. Co.* v. *Blaikie Brothers*, the director a such had contracted with himself as a member of a firm, he was thus in the position of both vendor and purchaser, and it seems to be unduly stretching the principle stated there to apply it to the facts in *Re Thomson*. In fact, that principle as applied by Clauson, J., in the latter case would have prevented the director from carrying on any business at all which did or might compete with the company's business which was not the question before the court.

A case which bears more directly upon the question of the right of an executor to compete is *Davies* v. *Hodgson* (1858), 27 L.J. Ch. 449. In that case a testator, Alexander Grant, a tobacco broker, by his will gave all his residuary estate, which included the goodwill of his business, to his brother, William Grant, and others, upon trust to pay the income thereof to his wife for the support of his children until they should all have attained the age of twenty-one or married,

and upon the happening of that event upon trust for sale, and to divide the proceeds between his children.

It appeared that William Grant had been engaged in the the testator's business and claimed to be a partner, and had continued to carry on business for his own benefit, thereby, as it was alleged, depriving the estate of the value of the goodwill.

In his judgment, Romilly, M.R., said "It is here stated in evidence that the goodwill would be worth nothing; it is also in evidence that to make it worth anything William Grant must covenant not to carry on business and to do everything he could to assist those who purchased the goodwill to get the business made as beneficial to them as they could. If William Grant claims to be a partner, *Cook* v. *Collingridge* applies, as it holds that a partner is not liable to be prevented from carrying on the same business. If he is not a partner it is impossible to prevent him carrying on the business."

The report of that case is not very satisfactory, but it seems clear that the trustee, William Grant, was held entitled to conduct a competing business, although in doing so he rendered the goodwill of the testator's business valueless, which is in direct conflict with the principle applied by Clauson, J., in *Re Thomson*.

I do not think that *Re Thomson* is likely to be followed.

Landlord and Tenant Notebook.

New problems are always arising under the Rent Acts, and the latest one concerns the meaning of the expression "family" in s. 12 (1) (*g*) of the Increase of Rent and Mortgage Restrictions Act, 1920.

Who may be a "Member of the Family" of a Statutory Tenant.

Section 12 (1) (*g*) provides, *inter alia*, that the expression "tenant" includes the widow of the tenant dying intestate who was residing with him at the time of his death, or where a tenant dying intestate leaves no widow or is a woman, such member of the tenant's family so residing as aforesaid as may be decided in default of agreement by the county court.

In its primary sense the expression "family," it seems, must be limited to children and children only, but it is clear, on the other hand, that the expression may have a much wider meaning according to the context in which it is used.

It is to be observed that the above paragraph, while it expressly includes the widow of a tenant, makes no mention of a widower of a tenant. It has been held, however, in *Salter* v. *Lask* [1925] 1 K.B. 584, that the husband of a statutory tenant may claim the protection of the above provision, s. 12 (1) (*g*).

In the above case the statutory tenant was living on the premises with her husband and her child, who was nine years of age, and it was held that the husband was entitled to remain on as a statutory tenant. Mr. Justice Salter, however, added in his judgment: "It may have to be determined some day what limit is to be put on these words 'tenant's family,' whether they are equivalent to household, or whether they are limited as meaning blood relations, and in either case what members of the class respectively are indicated."

It has now fallen to the lot of Mr. Justice Wright to consider the above paragraph further, and he has held that the expression "family" will include brothers and sisters of the deceased tenant: *Price* v. *Gould*, *The Times*, 8th inst. In the above case the statutory tenant had died leaving a brother and two sisters in occupation, and one of the sisters had been selected by the other two to be the statutory tenant in accordance with the above paragraph. Mr. Justice Wright held that this sister accordingly succeeded to the interest of the deceased tenant and became the statutory tenant. It may be as well to point out that there is another provision in the Rent Acts, where the expression "member of the tenant's family" occurs, viz., in s. 4 "5" (1) (*d*) of the Rent and Mortgage Interest Restrictions Act, 1923. Under that provision the existence of alternative accommodation is necessary before the landlord can get possession, and such accommodation must be, *inter alia*, reasonably suitable to the needs of the tenant "and his family." From the case of *Thompson* v. *Rolls* [1926] 2 K.B. 426, it would appear that persons residing in the same house as sub-tenants of furnished rooms cannot be regarded as members of the statutory tenant's family.

It has been held, however, in the case of *Chiverton* v. *Ede* [1921] 2 K.B. 30, that before making an order for possession under s. 5 (1) (*f*) of the 1920 Act—now s. 4 "5" (1) (*f*) of the 1923 Act, the court, in determining the question as to the existence of alternative accommodation, must take into consideration the fact that the tenant has lodgers. It is important to note, however, that para. (*f*) is worded somewhat differently, since the accommodation in that case must be "reasonably sufficient in the circumstances."

In conclusion, it may be pointed out that if the facts in *Thompson* v. *Rolls* are carefully examined, that case would appear to be an authority for the proposition that members of the tenant's family, at any rate for the purpose of s. 4 "5" (1) (*d*), will include nephews and nieces.

Our County Court Letter.

DANGEROUS BOUNDARY WALLS.

A builder's liability for the above was considered in the recent case of *Attwell* v. *Geeve*, at Weston-super-Mare County Court, in which the claim was for £25 as damages for negligence, viz., leaving a heap of building material in a roadway, without any lights, whereby danger was caused to pedestrians. The plaintiff had been walking after dark along an avenue, which had been a public path for thirty years, when she fell over a pile of rubble 2 feet high, and then into a hole or trench, thereby sustaining injuries. The middle of the avenue was rough, and the plaintiff walked at the side, but it transpired that alterations were being made to the garden wall of an adjoining house. The owner, however, was not responsible for the workmen, who were employed by the defendant as an independent contractor, and corroborative evidence of the obstruction was given by a cyclist, who had had a similar accident during the same evening. The defendant's case was that (1) the heap was not left in the avenue; (2) the plaintiff was a trespasser; and (3) had been guilty of contributory negligence in walking at night along an unlighted road which she knew to be dangerous, without taking precautions to avoid an accident. The owner of the house stated that the heap of stones was within the bounds of his old wall, neatly stacked, and could not have been dangerous to persons walking along the avenue. Two masons corroborated that there was no hole or pit, and that, as all the stones were within the building line, they did not encroach upon the roadway. His Honour Judge Parsons, K.C., observed that the issue was whether the heap was either upon the actual roadway, or so close that it might be a source of danger to those using the road with ordinary caution. He held that it was dangerous to leave the stones upon that piece of ground, so suddenly deprived of its flanking wall, and in a position shown to be outside the old boundary. Judgment was therefore given for the plaintiff for £21 10s. and costs.

The importance of establishing exactly where the accident happened was shown in *Bromley* v. *Mercer* [1922], 2 K.B. 126, in which the defendants were the owners of a public-house, which they had let on a tenancy agreement to the plaintiff's grandmother. The defendants had covenanted to repair the wall adjoining the street, but one of the stones fell upon and injured the plaintiff, who was playing with other children in the yard, during a visit to her grandmother. Mr. Justice Finlay (then a Commissioner of Assize) held that (1) the

defendants were not liable for negligence, as they were not in occupation of the premises, and owned no duty to any licensee or invitee of the tenant; (2) the state of the wall was a public nuisance, and the plaintiff had not lost her remedy, as a member of the public, through being injured while not actually on the highway. Judgment was therefore given for the plaintiff for £389, but this was reversed in the Court of Appeal, on the ground that such a nuisance only gives a right of action to persons using the highway, whereas the plaintiff had not been exercising any public right when injured. Judgment was therefore entered in favour of the defendants.

The last-named case was distinguished from *Harrold* v. *Watney* [1898], 2 Q.B. 320, where the facts were similar, except that the injured child was on the outside of the fence and was attracted by some children inside. Mr. Justice Ridley gave judgment for the defendant on a claim for negligence, but the Court of Appeal entered judgment for the plaintiff on the ground of nuisance.

There is apparently scope for further argument with regard to the rights of two persons, who may be injured while walking together, one on each side of a boundary. The point did not arise in *Coleshill* v. *Manchester Corporation* [1928], 1 K.B. 776, where the plaintiff and his fiancée took a short cut at dusk across a road in course of construction, but only the plaintiff fell into an unlighted trench, which his companion saw in time. Mr. Justice Acton gave judgment for the plaintiff, but the Court of Appeal held that there was no concealed trap, and gave judgment for the defendants.

Practice Notes.

LIGHTS ON MOORED VESSELS IN HARBOUR.

The advisability of regulating the above subject by means of bye-laws was recently shown at Bristol County Court in two cases relating to "The Beauly." That vessel had collided with the s.s. "Marita" (the barge "Excelsior" being moored alongside) and the owners of these two vessels brought separate actions for damages for negligence, there being counter-claims by the owners of "The Beauly." The "Marita" was moored beside a timber wharf, and part of her cargo had been transferred to the "Excelsior," on the far side from the wharf, but no lights were showing. This was not compulsory under the bye-laws, but the latter had been broken to the extent that no one had been left on board. "The Beauly" had been travelling at steerage way, with navigation lights burning, and her engines were put astern as soon as the barges were noticed, but (in swinging to starboard to avoid them) the bluff of her bow struck the "Marita's" port quarter, and the two ships brought up about bridge to bridge. The case for "The Beauly" was that (*a*) the barge was in the shadow of the "Marita," and was not revealed by the adjacent shore lights, but no accident would have happened if the "Marita" and the "Excelsior" had shown proper lights; (*b*) the neglect of this precaution of common-sense and good seamanship had induced the accident. His Honour Judge Parsons, K.C. (sitting with nautical assessors) gave judgment for the plaintiffs in the first action (the owners of the "Marita") on the claim and counter-claim. In the second action it was held that the "Excelsior" constituted a nuisance while moored in the fairway, and that she should not have been moored alongside, but either at the bow or the stern of the "Marita," after the day's work. The "Excelsior" and "The Beauly" were therefore equally to blame, and were ordered to share the costs.

THE REMUNERATION OF ESTATE AGENTS.

In the recent case of *Hiles Smith & Son* v. *Wallis*, at Hereford County Court, the plaintiffs claimed £14 14s. as commission on the sale of a house, which they had advertised eight times at a cost of £1 12s. 6d., and in respect of which they had issued sixteen permits to view. The defendant himself had advertised the house at a later date, and, as it was sold to one of the persons who had applied to the plaintiffs, the latter claimed that the purchase was through their introduction. The amount claimed was about half the usual commission, and the plaintiffs denied that they advertised on the terms of "No sale, no pay." The defendant denied liability on the ground that the purchaser (whom he called as a witness) had not used the card to view, but had got into touch with the defendant through his own advertisement, and not by reason of the plaintiffs' efforts. His Honour Judge Roope Reeve, K.C., observed that it was not enough for an agent merely to bring a house to the attention of a subsequent purchaser, as there might be other circumstances disentitling the agent to his commission. The purchaser in the above case had applied for particulars when the price was higher than that at which she eventually bought, and at a time when the house was occupied by a tenant. An important difference was that the later advertisement offered vacant possession, and it had not been proved that the plaintiffs directly or indirectly influenced the purchaser. Judgment was therefore given for the defendant, with costs.

Legal Parables.

LII.

The Obscure Solicitor and the Nice-minded Magistrate.

Mr. Wordy was a conscientious and painstaking solicitor with a taste for advocacy. Though he was naturally shy, he was determined to make his way and to gain an ascendancy over the local bench. "To do this," he observed to his confidential clerk, "one must proceed by degrees, acquiring power and influence gradually and imperceptibly. One must never let the bench feel that one is dictating to them, but rather sway them by tactful persuasion and not too definite suggestion." To which the old clerk replied: "Take my tip and don't be too indefinite. My experience is that it's best to tell our local beaks what you want 'em to do. They're stupid enough to misunderstand anything you don't tell 'em twice over in words of two syllables."

When Mr. Wordy was called upon to defend a well-known local lady on a charge of common shoplifting, he realised that this was not only a difficult matter, but it was a painful case, especially as the bench had only recently announced its determination to put down a growing class of offence. After careful consideration he came to the conclusion that here was the very case which would prove how right was his theory of advocacy.

The facts were too plain to admit of denial, so Mr. Wordy announced that he proposed to take a *certain course*.

"Take a what?" asked the chairman, who was rather new to the game.

Mr. Wordy explained that what he intended to indicate was that his client, after due consideration and after receiving careful advice, desired to submit herself to the jurisdiction of the court and to refrain from contesting the case.

"You plead guilty, in fact," snapped the clerk.

"That is so," replied Mr. Wordy.

"Why ever didn't he say so?" ejaculated the chairman.

Mr. Wordy, blushing a little, said that this was a painful case. His client, who was, as he said, unable to traverse the allegations of the prosecution, had nevertheless an explanation to offer through him. She was a lady of unblemished reputation; she had no need to resort to larcenous methods in order to acquire property since her husband's means were by no means exiguous. The fact was (sinking his voice) she was in a *certain condition*. That did not excuse felony, but it afforded an explanation. But for being in that

condition she would surely never have been guilty of such an aberration. If their worships would take a *certain course* with her, he felt, if he might say so, that not only would it serve the best interests of his client, but it would also vindicate justice.

After a momentary consultation with his only colleague (who was deaf), the chairman, who had been delicately nurtured and had led a sheltered life, announced his decision.

It was, he agreed, a painful case. He agreed also that a condition of mind brought about by drink was no excuse, though it might be an obvious explanation, as Mr. Wordy had said. He further agreed with Mr. Wordy's suggestion that to vindicate justice was the best way of helping his client, and that a short sentence of imprisonment would best serve her interests: One month in the second division.

At the hearing of the appeal, a brutally frank barrister told the court exactly what was the matter, and the lady was bound over: but Mr. Wordy was not the solicitor for the appellant.

Correspondence.

County Court Fees.

Sir,—A writ for any amount and for any claim is issued in the High Court for 30s. I have just issued a summons in the county court claiming a mandatory injunction and damages, and the issuing fee is £3 4s. A similar fee will be payable on the hearing. If the injunction is granted there will be a further fee for drawing up the order. These fees are substantially higher than those in the High Court in similar cases. In my opinion the present system in commencing proceedings in cases where over £20 is claimed, or other relief of a substantial character is claimed, is unsatisfactory. No writ is issued, and apart from the particulars of claim all the plaintiff receives is a plaint note which is practically a receipt for court fees paid.

I suggest in such cases as above referred to the plaintiff should be able to issue a writ similar to the High Court and serve it by his solicitor or agent. The defendant should be bound within ten days of service to file and serve a notice (*a*) admitting the claim, or (*b*) defence, with full particulars on failure to do so, the plaintiff to be able to sign judgment or apply for the relief asked for.

In these cases I fail to see why the county court fees should exceed those in the High Court.

I also suggest that in these cases when judgment is obtained the plaintiff should be at liberty to draw it up as in the High Court, and then if he desires take out such writ for enforcing it as may be necessary, and leave it with the sheriff to enforce as in High Court cases. The delays in enforcing judgment or orders in the county courts are great, no doubt caused by the large number (generally small ones) the bailiff has to deal with.

16th May. A Solicitor.

Finance Act, 1927, s. 55.

Sir,—This section provides substantial relief from capital and transfer stamp duty upon the sale of the undertaking of an existing company to a new company for purposes of reconstruction, but the relief is only claimable if the consideration payable by the new company for the undertaking of the existing company consists as to not less than 90 per cent. in *the issue of shares* in the new company to the shareholders of the existing company.

It has come to our knowledge that the Inland Revenue authorities now take the view that the *allotment* of the shares to the shareholders of the existing company is not an *issue* of shares to the shareholders within the meaning of the section, and that, in order to obtain the relief, the names of such shareholders must actually be entered in the register of members of the new company in respect of the shares so allotted.

We are advised that this view of the Inland Revenue authorities is not well founded.

We have in mind a particular case—that of an existing company which sold its undertaking to a new company for fully-paid shares, the latter being allotted to the shareholders of the existing company in the ordinary way. Following the usual practice, some of the shareholders renounced their right to their allotments and their renouncees were the first names to be entered on the register of members of the new company. The Inland Revenue authorities contend that as the actual shareholders of the old company were not entered upon the register of members of the new company, no relief is claimable under s. 55 of the Act.

This contention—if it be correct—will either prevent the new company from claiming the valuable reliefs afforded by the section, or will preclude the shareholders renouncing their rights to their allotments for a short interval after allotment—a valuable privilege which for some years past has been recognised by the London Stock Exchange and has become sanctioned by usage.

We shall be interested to know whether any of your professional readers have met with a similar case, and, if so, we shall be glad if they would communicate with us C/o Box No. 700, The Solicitors' Journal.

20th May. City Solicitors.

County Court Procedure.

Sir,—We have read the interesting report of the London Chamber of Commerce on the costs of litigation as outlined in your issue of the 10th instant.

The recommendations appear to be very practical and a means of shortening a trial of an action. We think the London Chamber of Commerce might deal with the difficulty of enforcing county court orders and judgments.

There does not seem to be any steps being taken to remedy the trouble of enforcement of county court orders. The county courts are so full of debtors who defy the orders of the court that it stirs us to write you on the subject.

The present system of procedure for the enforcement of county court orders for payment of debts leaves much to be desired for the well-being of the country.

Where an order has been made it should be incumbent on the debtor to carry out the order or to apply to the court and offer explanations why the order has not been complied with. On the application the debtor should be required to produce a sworn balance sheet of his means or other evidence entirely satisfactory to the court. In default of such application within, say, a month, the creditor should be able to apply to the court ex-parte for an order of committal on evidence that he has sent a letter in a prescribed form that he is applying for the committal ex-parte after seven days from the despatch of such letter, and this would give the debtor another opportunity to obey the order or to offer explanations as above.

We submit that if the suggestion were adopted as a new procedure it would remove the present bad moral attitude rampant amongst debtors.

London, W.1. A. E. Hamlin & Co.

21st May.

LOCAL AUTHORITIES' ENABLING BILL.

The Local Authorities (Enabling) Bill, which is backed by private members, and was read a second time on the Friday before Easter, was withdrawn when it came before a Standing Committee in the House of Commons on Wednesday. Its object was to enable local authorities to enter into any kind of trading activities on the same conditions as a limited liability company.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Termination of Workmen's Compensation.

Q. 1916. In April, 1928, A.B.'s finger was damaged in an accident arising out of and in the course of his employment. The finger turned sceptic and a portion was subsequently removed. The accident was duly reported and compensation paid for incapacity until November, 1928, when it was reduced to 5s. per week, no objection being taken by him. In January, 1929, he was certified fit for his own work by the doctor of the employers' indemnity company, and the usual ten days' notice was served after which his compensation was stopped. A.B. was in fact unfit for his own work, which entailed some very heavy lifting, but, owing to lack of means, he did nothing in the matter. He subsequently obtained some four months' navvying work which was not so heavy as his own employment. In February, 1930, he tried his own work, but had to give up after three and a half hours. His own doctor certified him unfit for that work, but says that he could do light navvying. He is of opinion that A.B. might be able to do his own work if the stump of his finger were removed. A.B. now desires to claim compensation, and your opinion is asked as to whether he has a case. It is feared that he may be out of time. I contend that the payment of compensation in the circumstances above set out is sufficient evidence of an implied agreement to pay the appropriate compensation during total and partial incapacity. If this contention be correct please advise whether a memorandum can still be registered in the county court, and, if so, what are the appropriate steps to enforce it. Under the circumstances a request for arbitration would appear to be inapplicable.

A. A.B. is not out of time, as the above procedure under the Workmen's Compensation Act, 1925, s. 12 (3), is merely an interim arrangement, and does not finally decide the rights of the parties. See *Pudney* v. *France Fenwick & Co.* [1925] 1 K.B. 346. The circumstances shew (as suggested in the question) that there was an implied agreement to pay compensation during total and partial incapacity, but they also appear to give grounds for the employers to contend that there was a further implied agreement to terminate compensation. See *Feeney* v. *Firbeck Collieries Ltd.* [1926] 2 K.B. 218, where the facts were more against the workman than is apparently the case here. A.B. should take proceedings by original arbitration, in accordance with *Robinson* v. *Vickers-Armstrong Ltd.* (1929), 22 B.W.C.C. 171. The Court of Appeal there held that, although an application to review was misconceived (in similar circumstances to the above) leave should have been given to amend by filing a request for arbitration under s. 21. In the present case there is no recorded agreement, and A.B. is therefore not entitled to apply for leave to issue execution, subject to an application by the employer for a review under r. 82 (5).

Rent Acts and Landlord and Tenant Act.

Q. 1917. A.B., the owner, in 1905 demised to C.D. a shop with dwelling-house over it, for fourteen years from the 29th September, 1905, at the rent of £20 per annum. The lease expired on the 29th September, 1919, and shortly before its expiration C.D. signed an informal agreement by which he agreed to an increase in the annual rent, from the expiration of the lease, to £30 per annum, and that six months' notice should be sufficient to terminate the tenancy. The rent of £30 per annum has been paid ever since. Having regard to the fact that the tenancy was subject to the Rent Acts, a question arises whether this was a legal increase of the rent. See judgment of Greer, L.J., in *Abbey* v. *Barnstyn* (1930), 46 T.L.R., p. 293. A.B. has now given C.D. notice to quit the property at Michaelmas, 1930. C.D. on the 24th March gave to A.B. notices under the Landlord and Tenant Act claiming to be entitled, at the termination of his tenancy at Michaelmas, 1930, on quitting the said premises, to £— as compensation for goodwill; and that in lieu of compensation he required a new lease to be granted to him. The annual value of the property demised is considerably more than the rent now paid. Please advise (1) whether the notices given under the Act of 1927 constitute a waiver of C.D.'s rights under the Rent Acts, and enable notice to be given under s. 4 (1) (*b*) to C.D. that A.B. will grant a renewal of the tenancy at such rent as the tribunal consider reasonable; and (2) whether C.D. can repudiate his agreement to pay the rent of £30 per annum, and insist upon the original rent of £20 until a formal notice of increase of rent is given under the Rent Acts?

A. A statutory tenant is entitled to exercise such rights as may be conferred upon him by the Rent Restrictions Acts only, and the nature of his tenancy is incompatible with any claim by him under any other statute, such as the Landlord and Tenant Act, 1927. On the points raised—

(1) The notices under the Act of 1927 constitute a waiver of C.D.'s rights under the Rent Acts, and A.B. can therefore offer a renewal of the tenancy under s. 4 (1) (*b*) of the 1927 Act.

(2) C.D. therefore cannot repudiate his agreement to pay £30 per annum, and is estopped from insisting upon paying the original rent of £20.

De-control of Sub-let Portion of House.

Q. 1918. Has any legal decision been given in the following circumstances: A is the tenant of a house which is controlled under the Rent, &c. Restrictions Acts. On the 31st July, 1923, he was in occupation of the whole of the premises. Since that date he has sub-let part to B. Is the part so sub-let also controlled? In other words is "the part so sub-let also a dwelling-house to which the principal Act applies," the other part having been carved out of the whole for the first time since de-control came into operation.

A. The above facts fall within the proviso to s. 2 (1) of the Rent, &c. Act, 1923, as the words "where part of a dwelling-house to which the principal Act applies is lawfully sub-let," refer to the date upon which the question of de-control arises, and not to the 31st July, 1923. See *Doulin* v. *Parcell* (1927), 43 T.L.R. 140. The part so sub-let is also a dwelling-house to which the principal Act applies, as laid down in similar circumstances in *Domendietti* v. *Ryan* (1929), 45 T.L.R. 432. The result is that the fact of the tenant having been in possession of the part so sub-let does not cause the principal Act to cease to apply to that part, this being one of the excepted cases contemplated by the above sub-section. The part sub-let is therefore still controlled, on the authority of the last-named case, *supra*.

Sale of Furniture from Husband to Wife.

Q. 1919. A client of mine some months ago obtained £50 from his wife out of her own moneys for the purposes of his business, and in order to protect his furniture against claims by creditors and also to secure his wife's money, wishes to sell the furniture in the matrimonial home to his wife for £50 to cancel his indebtedness. The furniture may be worth about £200. Will you kindly advise me how the transaction may best

be completed in order to effect the wishes of the parties, namely, to protect the furniture from the claims of creditors in the event of the husband's bankruptcy? In particular, having regard to cases such as *French* v. *Gething* [1922] 1 K.B. 236, is there any advantage to be derived from the preparation and registration of an absolute bill of sale? What I really want is some form of assignment which will be effective in itself without the additional necessity of supplying extraneous evidence of the payment of the consideration, etc.

A. The question states that one of the objects is to secure the wife's money, and, if this means that only a mortgage is contemplated, the registration of a bill of sale in the statutory form will be necessary. It is also stated that the furniture may be worth £200, but the basis of this valuation should be ascertained, as the discrepancy between the value and the purchase price (£50) may give rise to a suspicion of fraud in the transaction. This aspect of the case is rendered less important, however, by *French* v. *Gething* (quoted in the question), as that case shows that a mere gift can confer a good title on the wife. There is therefore nothing to prevent the husband in the above case from giving a receipt to his wife for so much of the furniture as is worth £50, and giving her a deed of gift to include the rest of the furniture. The above-named case, and also *Ramsay* v. *Margrett* [1894] 2 Q.B. 18, show that no advantage is gained by registration of an absolute bill of sale, but it is impossible to devise any form of assignment which will dispense with the need for extraneous evidence of the payment of the consideration. Proof of the latter should be retained, in view of the possibility of interpleader or bankruptcy proceedings.

Income Tax—Mortgagee—Defaulting Receiver.

Q. 1920. On the 11th February, 1924, A mortgaged Blackacre to B for £300, with interest "at such a rate as should after the deduction of the current income tax yield the clear or net sum of £5 10s. per cent. per annum." This mortgage was repaid with interest to date on the 4th July, 1927. A new mortgage was thereupon granted by A to X for the sum of £165 with interest at the same rate. No interest has ever been paid upon the second mortgage by A. X appointed Y a receiver of the rents and profits on or about March, 1928. Y collected certain rents for the tenant, but defaulted in payment thereof, and a receiving order was made against him on the 8th March, 1929, and he was subsequently adjudicated bankrupt, but his estate is nil. In March, 1929, there was a very large arrear of ground rent owing to the ground landlord, but X was able to share the loss with the ground landlord, who had also appointed Y as his agent, and X commuted his liability for ground rent for about £19 instead of about £29. On the 21st January, 1929, X revoked Y's appointment as receiver, and appointed Z instead. Z has since been collecting the rents and has paid over to X about £20. X is, however, still about £9 out of pocket, and in addition there is an arrear of interest from the date of the mortgage. Further, X has been served with a sanitary notice, which it will cost him £15 to comply with, and there are arrears of rates. The Inland Revenue authorities are claiming three years' arrears of Sched. A tax up to 5th April, 1930. At first the inspector claimed 4s. in the £ upon the amount of the assessment, but in view of r. 13, No. VII, Sched. A., Income Tax Act, 1918, he has given that up, and is claiming 4s. in the £ on the amount of the ground rent and interest due only. X denies liability and states that he is only liable for the tax on the ground rent, and not for the tax on the interest, as he considers that income tax is only payable in respect of income *received as distinct from income payable.* The inspector of taxes points out that tax under Sched. A is charged on the annual value of property under the authority of the rules applicable to Sched. A in the 1st Sched. of the Income Tax Act, 1918. X rejoins that he can see nothing to support the inspector's contention in the rules and schedules. The inspector intends to take proceedings shortly. Which is right? Incidentally A's personal covenant is worthless, but X is paying tax on his own income at 4s. in the £.

A. The mortgagee is not liable to pay tax on interest he never receives. In fact, although the tax is a tax on his income, he is not liable to pay directly at all, except to the extent to which any interest has been received by him in full without deduction of tax. It must be remembered, however, (1) that the receiver appointed under the statutory powers is the agent of the mortgagor; (2) that the appropriate way of collecting Sched. A tax is to assess the occupier, who can be made to pay arrears except in the case where the arrears were chargeable during the occupancy of an owner-occupier (VII 3). Even in the case of small tenements where the landlord is directly assessable, the tax may be recovered from the tenant in case of landlord's default (VII 8); (3) that unless the mortgagor has in each year made a return of income showing his claim to allowances, the commissioners can legally assess the Sched. A tax at full standard rate on the net annual value, leaving the question of allowances to be dealt with by subsequent claim for return. It is considered, therefore, that though the mortgagee is not liable to a direct assessment on arrears of interest until he receives income sufficient to pay such interest, he can be made to pay the tax demanded indirectly through assessments on the tenants of the mortgaged property. Reference may be made to an answer to query No. 1694 on the same subject, though on different facts, in The Solicitors' Journal of 10th August last.

Milk Bill of Married Woman.

Q. 1921. W. Brown is a schoolmaster. His wife carries on business as a retailer of milk, which until recently she bought in bulk from Hodges & Co., to whom the sum of £27 is now owed for milk supplied. Hodges is contemplating suing for the amount and is considering whether he should join W. Brown as co-defendant with Mrs. Brown. W. Brown has not taken part in the milk business, but Hodges has reason to apprehend that if he sues and obtains judgment against Mrs. Brown alone the latter will say that the chattels used in her business are the property of her husband, who hires them out to her under a verbal agreement. If this contention is made and prevails, there would be no goods belonging to Mrs. Brown upon which to levy execution. Please advise whether to proceed against both W. Brown and his wife or against the latter alone.

A. There is nothing invalid in the hiring agreement between husband and wife, and it is agreed that an execution against the wife alone would probably be abortive. The difficulty remains, however, of discovering a cause of action against the husband, as he would apparently have a good defence, even if sued as a partner. See the Partnership Act, 1890, s. 2 (1) and (2). The best course appears to be: (1) allow the bill to reach £50, (2) obtain judgment against the wife alone and oppose any order for instalments, (3) notify the registrar under the County Court Rules, ord. 23, r. 12B, not to receive payment into court of less than the full amount, (4) issue (*a*) a bankruptcy notice under the Bankruptcy Act, 1914, s. 125, and (*b*) a petition on non-compliance.

Appropiation Clause—Introduction into Settlement.

Q. 1922. A question has arisen whether the appropriation clause which is usually inserted in wills should also be inserted in settlements. It sometimes happens that one of the persons entitled to a share in the trust funds comprised in a settlement is under disability, in which case it would be an advantage if the trustees of the settlement could appropriate investments at their discretion without having to obtain the consents of the other beneficiaries. The T.A., 1925, would appear only to give the power to appropriate to personal representatives?

A. Such a clause might frequently prove very useful in a settlement. A precedent of such a clause is to be found on p. 370 of the second volume of the second edition of "Blythewood and Jarman's Conveyancing Precedents." The statutory power, which is confined to personal representatives, is to be found in s. 41 of A. of E.A., 1925.

Notes of Cases.

Court of Appeal.

Bank of Russian Traders, Limited *v.* British Screen Productions Limited.

Greer and Slesser, L.JJ. 11th April.

PRACTICE—INTERROGATORIES—ACTION AGAINST COMPANY—COMPANY DIRECTED TO ANSWER INTERROGATORIES BY SECRETARY—BEST OF HIS KNOWLEDGE INFORMATION AND BELIEF—ANSWER BY SECRETARY ACCORDING TO KNOWLEDGE ONLY—INSUFFICIENT ANSWER—DUTY TO MAKE INQUIRIES.

Appeal from Talbot, J., in chambers.

These actions, which were consolidated, had been brought by the plaintiff company on a number of bills of exchange alleged to have been drawn by a company which had been incorporated according to the laws of the German Republic, accepted by the defendant company, indorsed to the plaintiff company, and dishonoured. The plaintiff company administered certain interrogatories to the defendants. The material ones asked the defendant company (1) whether all or some or one and which of the bills were drawn by the German company or its agent or agents; (2) whether they were indorsed by the said German company or its agent or agents to certain named indorsees; and (3) whether or not the German company was a corporation duly incorporated under the laws of the German Republic. The defendant company was directed to answer the interrogatories by its secretary to the best of his knowledge, information and belief. The secretary answered each of the interrogatories as follows: "I say that I do not know."

On a summons taken out by the plaintiff company, Master Whatley ordered a further answer. The Master's order was reversed by Talbot, J., in chambers. The plaintiff company appealed.

The COURT (GREER and SLESSER, L.JJ.) allowed the appeal. It was the duty of the secretary to answer the interrogatories to the best of his knowledge, information and belief, and it was not enough for him to answer them according to his knowledge only. It was his duty to make inquiries among other officials of the defendant company who might have the requisite information. It did not appear from his answer that any such inquiries had been made by him. The answer was therefore insufficient and the Master's order must be restored. Appeal allowed.

COUNSEL: *Harold Murphy; Valentine Holmes.*

SOLICITORS: *Wynne-Baxter & Keeble; Ashurst, Morris Crisp & Co.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Seaham Harbour Dock Co. *v.* Crook (Inspector of Taxes).

Rowlatt, J. 30th April.

REVENUE — INCOME TAX — GOVERNMENT EMPLOYMENT SUBSIDY—WHETHER ASSESSABLE TO INCOME TAX.

Appeal by the Seaham Harbour Dock Co., on a case stated by the General Commissioners of Income Tax for the Easington Ward Division of the County of Durham.

The appellants appealed against the following assessments to income tax: 1925-26, £191; 1926-27, £2,178; 1927-28, £16,709; 1928-29, £85,101. On the 31st July, 1923, the appellant company obtained an Act of Parliament to enable them to extend their docks, and the estimated cost of the work was £152,000. On the 6th November, 1923, the Unemployment Grants Committee, on the application of the company, sanctioned a grant to the company equivalent to half the interest at a rate not exceeding an average of 5½ per cent. a year on approved expenditure met out of loans (not exceeding £152,000) for a period of two years. Periodical remittances were made in the four years in question of sums totalling £7,500. The instalments were always credited to revenue in the company's accounts. The company contended, *inter alia*, that the grant was made by a Government body, and was capital and not taxable income. The Crown contended, *inter alia*, that the subsidy was in the nature of revenue, and was not a capital receipt. The Commissioners were of opinion that the grant was revenue and was taxable income of the company.

ROWLATT, J., said that the case, to some extent, broke new ground. The question was whether the dock company was bound to bring in as part of its receipts on revenue account certain sums of money granted by the Government for the purpose, generally speaking, of aiding them in providing employment. The arrangement as to the subsidy seemed to have been entered into without considering the question of income tax at all. The question was whether the payment was received for the services rendered by the trader. He (his lordship) thought that the subsidy in this case was clearly paid and received as a matter of business; it was not interest, but was money in the nature of revenue. In the particular and exceptional circumstances of this case it did become an annual sum which the company got out of the carrying on of its powers as a dock company. The subsidy was "an annual profit or gain" and was liable to tax. The appeal was dismissed.

COUNSEL: *A. M. Latter*, K.C., and *Cyril King*, for the appellants; *The Solicitor-General* (Sir James Melville, K.C.) and *R. P. Hills*, for the Crown.

SOLICITORS: *Gregory, Rowcliffe & Co.*, for *Cooper and Jackson*, Newcastle-on-Tyne; *The Solicitor of Inland Revenue.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Nolder (Inspector of Taxes) *v.* Walters.

Rowlatt, J. 1st May.

REVENUE—INCOME TAX—AIR PILOT'S SPECIAL EXPENSES—NATURE OF ALLOWANCES PERMISSIBLE.

Case stated by the General Commissioners of Income Tax for the Parish of St. James's, Westminster.

The respondent, Leslie Allan Walters, appealed against an assessment to income tax of £918 10s. for the year ended the 5th April, 1928, under Sched. E of the Income Tax Acts. The respondent was employed as a pilot of aeroplanes by the Imperial Airways, Limited, and his flying duties often taking him abroad, where he had to stay a night or longer, the company allowed him a flat rate of £1 a night away from England. The nature of his duties, the respondent contended, made it necessary for him to keep a motor car and to have a telephone. He submitted (*a*) that the amounts expended by him over and above the company's flat rate for subsistence allowance were expenses which he was necessarily obliged to incur and defray out of the emoluments of his office in the performance of his duties, and, therefore, a proper claim under the first part of r. 9 of the Sched. E Rules; and (*b*) that a due proportion of the expenses of the motor-car and telephone were moneys wholly, exclusively and necessarily expended in the performance of the duties, and, therefore, also a proper claim within the latter part of r. 9. It was contended by the Crown (*a*) that the company's flat rate was sufficient, and that any excess was not a reasonable and necessary expense; and (*b*) that the expenses of the upkeep of a motor-car and telephone were not expenses wholly, exclusively and necessarily incurred in the performance of his duties. The Commissioners were of opinion that the amount claimed by the respondent was reasonable and wholly, exclusively and necessarily incurred in the performance of his duties, and should be allowed. The Crown now appealed.

ROWLATT, J., said that what the Statute allowed to be deducted were "expenses of travelling in the performance of the duties of the office or employment," or money expended

"wholly, exclusively and necessarily in the performance of the said duties." He thought that the respondent could not be allowed the cost of the motor-car or of the telephone. On the other part of the case the respondent's actual duty was to travel, and he was entitled to be allowed the expenses of so travelling. It really came to be a question of quantum, and as a matter of law he (his lordship) could not say that the Commissioners were wrong or set aside their decision. In the result the Crown succeeded as to the motor-car and telephone, and failed as to the travelling expenses. There would, therefore, be no order as to costs.

COUNSEL: *The Solicitor-General* (Sir James Melville, K.C.) and *R. P. Hills*, for the Crown; *Cyril King*, for the respondent.

SOLICITORS: *The Solicitor of Inland Revenue*; *Beaumont and Son.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Apted *v.* Apted and Bliss.

Lord Merrivale, P. 15th and 16th April and 19th May.

DIVORCE—UNDEFENDED SUIT FOR DISSOLUTION—PETITIONER'S OWN ADULTERY—SUPPRESSION OF MATERIAL FACTS—PRINCIPLES ON WHICH DISCRETION OF THE COURT IS EXERCISED—ARGUMENT ON BEHALF OF KING'S PROCTOR—PETITIONER'S CONTEMPT OF COURT—DIRECTION AS TO FUTURE PROCEDURE IN "DISCRETION" CASES—FULL DISCLOSURE OF PETITIONER'S ADULTERY *in limine*—STATEMENT TO BE LODGED WITH APPLICATION FOR REGISTRAR'S CERTIFICATE.

This was a husband petitioner's undefended suit for dissolution in which he asked for the discretion of the court to be exercised in his favour. At the hearing of the petition the President adjourned the case in order that the court might have the assistance of the King's Proctor. At the adjourned hearing the Attorney-General, appearing for the King's Proctor, addressed an elaborate argument to the court reviewing the history of the exercise of the discretion from the passing of the Matrimonial Causes Act, 1857, down to the present time, and invited the court to state the principles applied in granting or refusing the discretion so that the King's Proctor might have guidance as to intervention in the future. The petitioner was recalled, and on cross-examination by the Attorney-General, admitted suppressing material facts as to his own adultery at the previous hearing.

Lord MERRIVALE, P., in the course of delivering a considered judgment dismissing the petition, said that the grounds upon which discretion should be exercised or refused for or against a petitioner guilty of adultery could not be rigidly defined. It could, however, fairly be said that their general nature and some necessary limitation had from time to time been clearly stated. His lordship referred to *Morgan* v. *Morgan and Porter* (1869), 1 P. & D. 644; *Constantinidi* v. *Constantinidi* [1903] P. 246; *Wilson* v. *Wilson* [1920] P. 20; *Wilkinson* v. *Wilkinson* (1921), 37 T.L.R. 835; *Bebb* v. *Bebb* (1920), 36 T.L.R. 303; *Elliot* v. *Elliot* (1921), 37 T.L.R. 834; *Tickner* v. *Tickner* [1924] P. 118; *Wickins* v. *Wickins* [1918] P. 282; and *Hines* v. *Hines* [1918] P. 364. The judgment in *Morgan* v. *Morgan*, *supra*, which expressed the considered opinion of Lord Penzance, emphasised the risks of "loose and unfettered discretion . . . formed upon a general impression of facts too numerous to be perfectly brought together and weighed," and he laid it down that "the discretion to be exercised should be a regulated discretion and not a free option subordinated to no rules." That, so far as he (his lordship) knew, had not been called in question by any judge. So far as the judgment in *Morgan* v. *Morgan*, *supra*, specified grounds of discretion, it was founded on the following statement: "There is no doubt, I think, that the Legislature invested this court with a discretion, and there is equally no doubt that there are cases in which the adultery of the petitioner has been committed under such circumstances that it ought not in justice to stand in the way of a decree." Lord Penzance identified with certainty two classes of cases only, namely, "where the respondent had induced the petitioner to believe she was dead" and "where the husband had forced his wife to lead an immoral life." The grant of relief in such cases was unquestionable on a broad principle of English law, apart from the powers of the court under the Statutes in question. They seemed to depend rather on the principle of estoppel than on the judicial discretion. It was remarkable that the well-known case of *Anichini* v. *Anichini*, (1839), 2 Curt. 210, in which discretion in favour of a petitioner had been applied in the Ecclesiastical Court many years earlier, was not accepted in *Morgan* v. *Morgan*, *supra*, as coming clearly within the law. In that case it was held in respect of divorce *a mensâ et thoro* that as a ground for the exercise of a judicial discretion in favour of a petitioner an act of adultery of which he had been guilty had been "long since pardoned and condoned." Lord Penzance did not include a case of that class as a clear case for the exercise of discretion. *Anichini's Case*, however, had since been regarded as a decision proper to be followed.

Lord St. Helier in *Constantinidi* v. *Constantinidi*, *supra*, said that the discretion conferred by the Statute was a judicial and not an arbitrary discretion, and that the list of such causes was not inclusively and exclusively ascertained by the terms of the Statute. He also said that a petitioner who had been guilty of adultery should not be allowed to obtain a divorce if such adultery in any serious degree contributed to the misconduct of the respondent, and conversely that the respondent should not be allowed to avoid the consequences of proved misconduct by putting forward an act or acts of misconduct on the part of the petitioner for which the respondent was himself or herself in any serious degree responsible. In *Wilson* v. *Wilson*, *supra*, facts defined as material for consideration were the interests of children affected by the petition, the position of a mother under whose care and control the children were, and existing and possible conditions of the guilty spouses. Those considerations were held to be relevant and admissible not only as affecting interests of the individuals directly concerned but in affecting the welfare of the community. That decision had been approved by Lord Birkenhead and followed by other judges. On a review of the cases as a whole, the following principles appeared: The interest of the community at large in maintaining the sanctity of honest matrimony was a governing consideration; a strong affirmative case was necessary before a judge was justified under the Statutes in negativing their conditional prohibition; it was manifestly contrary to law that a judicial discretion in favour of a litigant guilty of misconduct in the matters in question should be exercised where that course would probably encourage immorality, and if it was likely to do so that was an argument against leniency.

His Lordship, in reviewing the practice of the court, said that it was intended to secure that material facts were known with reasonable certainty, but experience had shown it to be increasingly difficult in recent years to do so. Parties were loath to disclose their own ill-doing. As between a petitioner and a respondent both to blame there was also an inevitable tendency to collusion, although a bar to divorce if discovered. From time to time safeguards had had to be re-imposed. No divorce suit proceeded to trial until a registrar had certified that the proceedings in the suit were in order. When the exercise of discretion was asked it was necessary to set forth that fact in the petition, so that the case might in due course find its place in the appropriate cause list and not need to be adjourned at the hearing. In the interests of straightforwardness, no less than for securing dispatch, certainty and finality in all suits where the exercise of discretion was prayed the fact must be stated in the petition, as was commonly done

now, and there would be lodged with the application for the registrar's certificate a statement of the matters in respect whereof the exercise of discretion was prayed, and the grounds on which the petition in that behalf was based. The official form of application for certificates would henceforth set forth those requirements. That being done, no petitioner could thereafter reasonably assert when his case came to be heard that he had been under any misapprehension of what was required of him. When guidance was given to the petitioner as to the procedure to be observed it was proper at the same time to mention consequences which might follow wilful disregard or abuse of that procedure. There was a too general assumption that the sole penalty for suppression ot fact or presentment of falsehood in such cases was to allow the King's Proctor's intervention to rescind the decree *nisi* and dismiss the suit with an order for payment of costs, which was not infrequently found incapable of enforcement. But one of the safeguards of legal procedure in England was the prescriptive authority of courts of record to visit with summary punishment persons who purposely obstructed or diverted the course of justice. Not to do what a party was commanded or required to do by legal process had always been within the area of liability for contempt of court.

His Lordship, in dismissing the petition, said that he found the Petitioner guilty of a contempt. If the petitioner proceeded promptly according to his means to meet the pecuniary liability which he had incurred with regard to the costs of the King's Proctor's inquiry it might not be deemed necessary to take any specific action on the finding of contempt.

COUNSEL: *The Attorney-General* (*Sir William Jowett*, K.C.), *Clifford Mortimer*, and *William Latey*, for the King's Proctor; *Eric Sachs*, for the petitioner.

SOLICITORS: *The King's Proctor; Judge & Priestley.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Obituary.

MR. S. P. B. BUCKNILL.

Mr. Samuel Pratt Berens Bucknill, Solicitor, of No. 2, South Eaton Place, S.W., and for many years Secretary to The Law Society, died on Thursday, the 8th inst., in a nursing home, following an operation. The son of Dr. Samuel Birch Bucknill, he was born in 1849; educated at Rugby under the late Dr. Temple; was captain of the cricket XI, and also had the additional distinction of winning the athletic cup for two years. He went up to Trinity College, Cambridge, and took his degree in 1872. Apart from his professional activities he took a great interest in local government matters, having for many years been a member of the old vestry of St. Margaret and St. John, Westminster, and later of the Westminster City Council, the Board of Guardians, and the Metropolitan Asylums Board. He was elected Mayor of Westminster in 1924, became Deputy-Mayor in 1925, and was re-elected Mayor in 1926. As a Justice of the Peace for the County of London he sat on the St. Margaret's Bench and that of St. George's, Hanover Square, of which he recently became chairman, and had for many years been Chairman of the Westminster District Nursing Association. During the Great War he served in the Westminster Volunteers and Special Constables, and was a member of the Westminster Local Military Tribunal.

MR. L. J. LATEY.

Mr. Louis John Latey, Solicitor, who carried on practice for some years under the firm name of Latey & Latey, at 5 and 6, Clement's Inn, died at his Hampstead home on Thursday, the 8th inst., after a very short illness. The third son of the late Mr. John Latey (for many years Editor of *The Penny Illustrated Paper*, and for several years of *The Weekly Sketch*), he was born in London, educated at the Mercers School, and quite recently passed the chair as Worshipful Master of the Old Boys, Lodge "Honor Deo." He was admitted in 1910, and was subsequently employed for many years by the city firm with whom he served his articles, but later practised alone and worked up quite an extensive business. As honorary solicitor for many years to the Institute of Journalists, his valuable work was much appreciated. H.

Books Received.

Notes on Perusing Titles and on Practical Conveyancing. By LEWIS E. EMMET, Solicitor. Twelfth Edition. In Two Volumes. Vol. I. 1930. Royal 8vo. pp. lxxxi and (with Index) 885. The Solicitors' Law Stationery Society, Ltd., London and Liverpool. 30s. net.

Chambers in The Temple. Comments and Conceits "in camera." With a Plan of The Temple. C. P. HAWKES. Dedicated to Sir HENRY F. DICKENS, K.C., Common Serjeant of the City of London. Crown 8vo. 206 pp. (with Index). London: Methuen & Co., Ltd. 7s. 6d. net.

The Barrister. By Sir HAROLD MORRIS, K.C. Crown 8vo. 192 pp. London: Geoffrey Bles, 22, Suffolk-street, Pall Mall, S.W.1. 3s. 6d. net.

Letters to a Young Barrister. By FREDERICK J. WROTTESLEY, K.C. Medium 8vo. pp. iv and 115. 1930. London: Sweet & Maxwell, Ltd. 6s. net.

Oke's Magisterial Formulist. Being a Collection of Forms and Precedents for Practical Use in all Cases out of Quarter Sessions, and in Parochial Matters, by Magistrates, their Clerks, Solicitors, and Constables. 1930. Eleventh Edition. By S. E. MAJOR, Solicitor, Clerk to the Justices for Barrow-in-Furness. Demy 8vo. pp. lxv and (with Index) 1,367. London: Butterworth & Co. (Publishers), Ltd. 70s. net.

Societies.

Gray's Inn.

Friday, the 16th inst., being the Grand Day of Easter Term, at Gray's Inn, the Treasurer (The Right Hon. Lord Greenwood, K.C.) and the Masters of the Bench entertained at dinner the following guests:—Field Marshal The Right Hon. Viscount Allenby, G.C.B., G.C.M.G., The Right Hon. Lord Clwyd, The Right Hon. Lord Fairhaven, The Right Hon. J. C. C. Davidson, C.H., C.B., M.P., The Treasurer of the Hon. Society of the Middle Temple (The Hon. Mr. Justice Horridge), Sir Kynaston Studd, Bart., O.B.E., Sir William Max-Muller, G.B.E., K.C.M.G., C.B., Sir Emsley Carr, Sir Alfred Lewis, Sir Nigel Playfair, and Mr. W. N. Tilley, K.C.

The Benchers present, in addition to the Treasurer, were:—The Right Hon. Sir Dunbar Plunket Barton, Bart., K.C., Mr. Arthur Gill, The Right Hon. Lord Atkin, Sir Montagu Sharpe, K.C., The Right Hon. Lord Justice Greer, His Honour Judge Ivor Bowen, K.C., Sir Alexander Wood Renton, K.C.M.G., K.C., Mr. R. E. Dummett, The Right Hon. Lord Thankerton, The Hon. Vice-Chancellor Sir Courthope Wilson, K.C., Sir Walter Greaves-Lord, K.C., M.P., Mr. Bernard Campion, K.C., Mr. J. W. Ross-Brown, K.C., Mr. James Whitehead, K.C., Mr. Frederick Hinde, Mr. Malcolm Hilbery, K.C., with the Preacher (The Rev. Canon W. R. Matthews, D.D.), and the Under-Treasurer (Mr. D. W. Douthwaite).

Law Students' Debating Society.

The annual meeting for the ninety-first session was held on Tuesday, the 13th inst. (Chairman, Mr. E. G. M. Fletcher). After the year's accounts and annual reports had been presented and adopted and officers elected for the ninety-second session, an impromptu debate took place.

The following facts are taken from the annual report of the committee. During the session debates have been held on fourteen legal and thirteen general subjects, in addition to joint debates with two other societies. A dance and a dinner have been held. The average attendance has been twenty-one. Twenty-two new members have joined and the total membership is now 360. The next session will commence on 7th October.

Barristers, solicitors and law students desiring to join should communicate with one of the Secretaries—Mr. J. C. Christian-Edwards, Finsbury Court, E.C.2, or Mr. H. J. Baxter, Farrars Building, Temple, E.C.4.

The Plowden Society (Middle Temple).

A debate was held on Tuesday, 20th inst., in the Middle Temple Common Room at 8.15 p.m., with the President in the chair. Mr. R. Knight proposed "That this House disapproves of the 'Talkies.'" Miss H. Watson opposed. The motion was negatived by one vote. These also spoke: Mr. J. L. Willis, Miss Ruth Epstein, Mr. G. E. Llewellyn Thomas and Mr. Vere Hunt. The hon. opener exercised his right of reply.

Legal Notes and News.

Wills and Bequests.

Mr. Edward James Naldrett, K.C., of Temple-gardens, Temple, E.C., and Elmside, Easebourne, near Midhurst, who died on 15th March, aged seventy-two, left estate of the gross value of £8,457, with net personalty £6,655.

Dr. George Bryan, LL.D., O.B.E., of Deramore-drive, Belfast, Chief Inspector of Audits, Ministry of Home Affairs, Northern Ireland. who died on 23rd January, left personal estate in England and Northern Ireland valued at £2,085.

Mr. Robert George Marchant, of King's Bench-walk, Temple, E.C., and St. Kilda, Main-road, Sidcup, solicitor, who died on 22nd March, aged eighty-two, left £28,722, with net personalty £19,037. He gives £50 to Miss J. Beaven, housekeeper.

LORD HEWART TO REST.

Lord Hewart, the Lord Chief Justice, has almost recovered from his recent chill.

He is suffering, however, from the effects of protracted strain, and, in order to ensure a complete recovery, it is necessary, in the opinion of his medical advisers, that he should rest for a few weeks.

POISON FROM AUTOMATIC MACHINE.

Judge Crawford, at Wood Green County Court on Wednesday, had before him the adjourned action which the Council of the Pharmaceutical Society had brought against Harry Ronald Watkinson, a chemist and a member of the society, of Lordship-lane, Tottenham.

The society sought the ruling of the judge on a point of law arising out of the Poisons and Pharmacy Act, 1908, concerning the bearing of the Act on the sale of poisons in automatic machines. The society considered it to be undesirable that the public should have access to poison without the attendance of a qualified chemist.

Judge Crawford said he would reserve judgment and give his decision later.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON GROUP I.

DATE	EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE.	MR. JUSTICE MAUGHAM.
			Witness. Part I.	Non-Witness.
M'nd'y, May 26	Mr. Ritchie	Mr. Hicks Beach	Mr. *Ritchie	Mr. Jolly
Tuesday .. 27	Andrews	Blaker	Blaker	Ritchie
Wednesday 28	Jolly	More	*Jolly	Blaker
Thursday . 29	Hicks Beach	Ritchie	Ritchie	Jolly
Friday 30	Blaker	Andrews	*Blaker	Ritchie
Saturday .. 31	More	Jolly	Jolly	Blaker
	GROUP I.		GROUP II.	
DATE.	MR. JUSTICE BENNETT.	MR. JUSTICE CLAUSON.	MR. JUSTICE LUXMOORE.	MR. JUSTICE FARWELL.
	Witness. Part II.	Non-Witness.	Witness. Part II.	Witness. Part I.
M'nd'y, May 26	Mr. Blaker	Mr. More	Mr. Andrews	Mr. Hicks Beach
Tuesday .. 27	*Jolly	Hicks Beach	*More	*Andrews
Wednesday 28	*Ritchie	Andrews	*Hicks Beach	More
Thursday . 29	*Blaker	More	*Andrews	*Hicks Beach
Friday 30	Jolly	Hicks Beach	*More	Andrews
Saturday .. 31	Ritchie	Andrews	Hicks Beach	More

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The WHITSUN VACATION will commence on Saturday, the 7th day of June, 1930, and terminate on Tuesday, the 10th day of June, 1930, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 5th June, 1930.

	Middle Price 21st May 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88¼	4 10 8	—
Consols 2½%	55⅝	4 10 1	—
War Loan 5% 1929-47	102½	4 17 10	—
War Loan 4½% 1925-45	97⅝	4 12 4	4 14 6
War Loan 4% (Tax free) 1929-42	101⅜	3 18 8	3 16 6
Funding 4% Loan 1960-90	90¼	4 8 5	4 9 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	94	4 5 1	4 6 9
Conversion 5% Loan 1944-64	102½	4 17 7	4 17 0
Conversion 4½% Loan 1940-44	99	4 10 11	4 12 0
Conversion 3½% Loan 1961	78½	4 9 2	—
Local Loans 3% Stock 1912 or after	65	4 12 4	—
Bank Stock	250½	4 15 10	—
India 4½% 1950-55	83¼	5 7 9	5 15 0
India 3½%	62⅛	5 12 0	—
India 3%	52½	5 14 3	—
Sudan 4½% 1939-73	96	4 13 9	4 14 6
Sudan 4% 1974	86	4 13 0	4 15 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83½	3 11 10	4 2 3
Colonial Securities.			
Canada 3% 1938	90	3 6 8	4 10 0
Cape of Good Hope 4% 1916-36	94	4 5 1	5 2 0
Cape of Good Hope 3½% 1929-49	83	4 4 4	4 17 6
Ceylon 5% 1960-70 (First Dividend £2 5s., 1st August, 1930.)	103	4 17 1	4 16 9
Commonwealth of Australia 5% 1945-75	91	5 9 11	5 11 3
Gold Coast 4½% 1956	94	4 15 9	4 18 0
Jamaica 4½% 1941-71	93	4 16 9	4 18 3
Natal 4% 1937	94	4 5 1	5 2 0
New South Wales 4½% 1935-45	83½	5 7 9	6 4 9
New South Wales 5% 1945-65	88⅛xd	5 13 0	5 15 6
New Zealand 4½% 1945	95	4 14 9	4 19 0
New Zealand 5% 1946	101	4 19 0	4 18 0
Nigeria 5% 1950-60 (First Dividend £1 15s., 1st August, 1930.)	101	4 19 0	4 18 6
Queensland 5% 1940-60	87½	5 14 3	5 17 6
South Africa 5% 1945-75	101	4 19 0	4 18 0
South Australia 5% 1945-75	88½	5 13 0	5 14 6
Tasmania 5% 1945-75	92¼	5 8 1	5 9 0
Victoria 5% 1945-75	89¼	5 11 9	5 12 9
West Australia 5% 1945-75	88½	5 13 0	5 14 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	64	4 13 0	—
Birmingham 5% 1946-56 (First Dividend £1 5s., 1st July, 1930.)	101	4 19 0	4 19 3
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	71	4 4 6	4 16 9
Hastings 5% 1947-67 (First full half year's Dividend in October, 1930.)	102½	4 18 0	4 16 6
Hull 3½% 1925-55	80	4 7 6	4 17 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	75	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	54	4 12 7	—
London City 3% Consolidated Stock after 1920 at option of Corporation	64	4 13 9	—
Manchester 3% on or after 1941	65	4 12 7	—
Metropolitan Water Board 3% "A" 1963-2003	65	4 12 7	—
Metropolitan Water Board 3% "B" 1934-2003	66	4 10 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 18 0
Newcastle 3½% Irredeemable	73	4 15 11	—
Nottingham 3% Irredeemable	62	4 16 9	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	101	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83	4 16 5	—
Gt. Western Rly. 5% Rent Charge	100½	4 19 6	—
Gt. Western Rly. 5% Preference	96	5 4 2	—
L. & N.E. Rly. 4% Debenture	77½	5 3 3	—
L. & N.E. Rly. 4% 1st Guaranteed	73	5 9 7	—
L. & N.E. Rly. 4% 1st Preference	65½	6 2 2	—
L. Mid. & Scot. Rly. 4% Debenture	79½	5 0 8	—
L. Mid. & Scot. Rly. 4% Guaranteed	77	5 3 11	—
L. Mid. & Scot. Rly. 4% Preference	70	5 14 4	—
Southern Railway 4% Debenture	79½	5 0 8	—
Southern Railway 5% Guaranteed	99	5 1 0	—
Southern Railway 5% Preference	92	5 8 8	—

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phones: Temple Bar 1181-2.

EX-OFFICER, 34, nine years oilfields California and Persia, returned for health reasons, desires employment in this country; also had pre-war and post-war (4 years) experience fruit growing in Canada. 11956

EX-CAPTAIN seeks post as Attendant Companion to invalid gentleman; previous experience; excellent character; strongly recommended and well-known references. Would travel if required. 8922

EX-OFFICER, 42, desires position of trust, secretarial; experienced farming Colonies, all branches, estate management, knowledge machinery, suction gas, tractors, accountancy, correspondence; drive car; go abroad. 11870

EX-OFFICER (Scotch), 33, single, last 10 years Germany, desires position of trust with prospects in healthy Colony; prefer former German Colony; free passage and 3 years' engagement; good at accounts; thorough business knowledge. 11555

EX-CAPTAIN seeks Secretarial position. Has held important Government position; French and German; shorthand-typist; travelled considerably. 1138

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COLONEL LYALL NEWCOMEN COOPER, deed., C.B.E., D.S.O., late R.E.—Any solicitor, banker, or other person having in his possession or knowledge of a Will of the above-named deceased who died at The Elms, Park-road, Teddington, Middlesex, on the 27th September, 1929, is requested to COMMUNICATE at once with Messrs. Royds, Rawstorne & Co., 46, Bedford-square, London, W.C.1.

WILL PHILLIPE PRANGE (a sister of John Howe, who married Elizabeth Mary Friday, of Gillingham and Lingfield) or her relatives, last heard of at Shepherd's Bush 20 years ago, COMMUNICATE with Wheeler & Brill, Solicitors, Oxted, Surrey?

WILL any RELATIVES of FRANCES HILTON (a sister of John Howe, who married Elizabeth Mary Friday, of Gillingham and Lingfield) and who were last heard of in Manchester 25 years ago, COMMUNICATE with Wheeler & Brill, Solicitors, Oxted, Surrey?

BARONESS AMY GORE-NORDHOFF (decd.) —Next of kin requested to communicate with C. Hoare & Co., 37, Fleet-street, E.C.4.

ANNE REBECCA CAROLINE WAINEWRIGHT, decd.—Any solicitor, banker or other person having in his possession or knowledge of a WILL of the above-named deceased, who died at No. 51, The Drive, Hove, Sussex, on the 29th April, 1930, is requested to COMMUNICATE at once with Messrs. Pennington & Son Solicitors, 64, Lincoln's Inn-fields, London, W.C.2.

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